

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

KELVIN PEOPLES,

Plaintiff(s),

vs.

EXPRESS SCRIPTS, INC.,

Defendant(s).

Case No. 4:06CV00915-ERW

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiff's Attorney's Request for Compensation of Services and Reimbursement of Out-Of-Pocket Expenses [doc. #27].

On August 11, 2006, this Court granted Plaintiff's Motion to Appoint Counsel, and Eugene P. Schmittgens Jr., of Lathrop and Gage, was appointed to represent Plaintiff. On November 16, 2006, the case was referred to Alternative Dispute Resolution (ADR) to be completed by February 16, 2007. On January 30, 2007, the parties filed an ADR Compliance Report advising the Court that the case had settled. Mr. Schmittgens now seeks an award of attorney's fees. Mr. Schmittgens requests \$12,105.00 in attorney's fees and an additional \$200.83 for photocopies, telephone calls, postage, and Westlaw research, for a total of \$12,305.83. The Court held a hearing on the matter on May 7, 2007. Mr. John Ryan appeared on behalf of Lathrop and Gage; Mr. Schmittgens is no longer with the firm. Mr. Ryan also participated in the case with Mr. Schmittgens.

Local Rule 12.03 provides that upon written motion and in the Court's discretion, disbursements may be made from the Non-Appropriated Fund to reimburse a court-appointed

attorney for reasonable expenses and attorney's fees incurred in a civil matter on behalf of an indigent client. Local Rule 12.03. An administrative order, dated November 1, 2006, provides additional guidelines on how the funds are to be distributed. It allows for disbursements for out of pocket expenses and attorney fees of appointed counsel. An attorney fee award is capped under the Administrative Order at \$2,500.00, and out-of pocket expenses cannot exceed \$1,500.00, or the amount has to be approved by the non-appropriated fund committee.

The Court concludes that the full amount of \$2,500.00 for attorney's fees is appropriate in this case. Mr. Ryan represented to the Court that he and Mr. Schmittgens put considerable effort into reaching an agreement with the Defendants in this case. Mr. Ryan further represented that he did not believe fees were available from Defendants, in accordance with the terms of the settlement agreement. The Court also awards \$200.83 cents for out-of-pocket expenses. Accordingly,

IT IS HEREBY RECOMMENDED that the request for Reimbursement of Out-Of-Pocket Expenses in the amount of \$200.83 be **APPROVED** and the Request for Compensation for Services [doc. #27] be **APPROVED, IN PART**, in the amount of \$2,500.00 for a total reimbursement of \$2,700.83.

Dated this 9th Day of May, 2007.



E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE

Upon the approval of the Chairperson of the Non-Appropriated Fund Committee,

IT IS HEREBY ORDERED that expenses and attorneys fees in the amount of \$2,700.83 are approved to be disbursed from the Non-Appropriated Fund in the above-styled action.

IT IS FURTHER ORDERED that the Clerk's Office shall forward a copy of this Order to the Finance Unit for the United States District Court of the Eastern District of Missouri.

Dated this _____ Day of May, 2007.

NON-APPROPRIATED FUND
COMMITTEE CHAIRPERSON